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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,620	07/05/2005	Robert Edmund Todd	1031-17	4080

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EXAMINER

PEACHES, RANDY

ART UNIT	PAPER NUMBER
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2686

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/511,620	<b>Applicant(s)</b> TODD, ROBERT EDMUND	
	<b>Examiner</b> Randy Peaches	<b>Art Unit</b> 2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-9 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Specification*

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. ***Claims 1-3 and 5-9*** are rejected under 35 U.S.C. 103(a) as being obvious over Todd (international Publication Number WO 01/15112 A1) in view of Diepstraten (European Patent Application Number 93304415.8).

The applied reference has a common inventorship with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and

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reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(I)(1) and § 706.02(I)(2).

Regarding **claim 1**, Todd discloses on page 2 of a method of inserting a communications module into a wireless communication system comprising at least one control module and a plurality of communications modules, which reads on claimed "first communication modules," wherein the system is adapted to transmit messages either directly or indirectly between modules, and wherein each said communications adapted to receive a wireless message and transmit said message to a further said communications module or to a said control module, and is programmed with at least one respective address identifying modules with which it communicates messages directly when in a communication mode, the method comprising:

- causing a said communications module, which reads on claimed "second communications module," , which is to be inserted into the system, to transmit a plurality of first messages, hereinafter interpreted as "signals" in a set up mode,
- causing said communications module to be installed to communicate directly, when in said communication mode, with at least one said communications module, which correctly received a said first message. See page 2.

However, Todd fails to clearly disclose wherein said messages are transmitted at different power levels and contain data representing said power levels.

Diepstraten teaches wherein according to the mobility of the sender, the power level of the sender will vary. See column 4 lines 17-49 and column 6 lines 28-33.

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify Todd to include Diepstraten in order to allow the system to efficiently optimize the transmitting power levels between said modules according to the distance between the communicating mediums.

Regarding **claim 2**, as the combination of Todd and Diepstraten are made, the combination according to **claim 1**, further discloses as taught by Todd on page 3, paragraph 2 and claim 2, causing said communications module to be installed to communicate directly, when in said communication mode, with at least two said communications modules which correctly received a said first message.

Regarding **claim 3**, as the combination of Todd and Diepstraten are made, the combination according to **claim 1**, further discloses as taught by Todd on pages 3 and 4 and claim 5, causing said communications module to communicate directly with the pair of-first communications modules which directly received a said first message most reliably.

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Regarding **claim 5**, as the combination of Todd and Diepstraten are made, the combination according to **claim 1**, further discloses as taught by Todd on page 3, paragraph 2 wherein said communications module is caused to be installed by means of a second message, from at least one said control module updating the address of a said first module which correctly received a said first message.

Regarding **claim 6**, as the combination of Todd and Diepstraten are made, the combination according to **claim 1**, further discloses a module to communicate directly with the first communications module which correctly received a said first message transmitted at lowest power level. Diepstraten further asserts that the communication between communicating mediums can be transmitted at low power level, dependent on the calculated distance between the two entities. See column 4 lines 17-49 and column 6 lines 28-33.

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify Todd to include Diepstraten in order to allow the system to efficiently optimize the transmitting power levels between said modules according to the distance between the communicating mediums.

Regarding **claims 7 and 8**, as the combination of Todd and Diepstraten are made, the combination according to **claim 1**, further discloses as taught by Diepstraten in column 6 lines 28-33 and 34-58, wherein the power levels are dynamic and therefore calculated

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based on the detected distances, which reads on claimed "first messages may be transmitted at least three different power levels."

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify Todd to include Diepstraten in order to allow the system to efficiently optimize the transmitting power levels between said modules according to the distance between the communicating mediums.

Regarding **claim 9**, as the combination of Todd and Diepstraten are made, the combination according to **claim 1**, further discloses as taught by Diepstraten in column 11 lines 44-54 and claims 1, 5 and 7, wherein the power level of transmission from said second communications module in said communication mode to a predetermined first communications module in response to the power level of a said first message received by said predetermined first communications module.

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify Todd to include Diepstraten in order to allow the system to efficiently optimize the transmitting power levels between said modules according to the distance between the communicating mediums.

#### ***Allowable Subject Matter***

**Claim 4** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 4, a method according to **claim 3**, further comprising the step of allocating points to each said first message received by said first communications modules, wherein first messages received at lower power levels are allocated larger numbers of points, and said second communications module is caused to communicate directly, when in said communication mode, with the pair of modules allocated the largest total number of points for first messages received from said second communications module.

The Examiner, at this stage of prosecution, deems the above "number of points," as objectionable subject matter based on the rejection of the dependency of the rejected independent claim.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy Peaches whose telephone number is (571) 272-7914. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Randy Peaches  
September 23, 2005

*Marsha D Banks-Harold*

MARSHA D. BANKS-HAROLD  
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